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# LAND TENURE REFORM IN KAZAKHSTAN, UZBEKISTAN, AND TAJIKISTAN

## FINAL REPORT

OCTOBER 31, 2005

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Implemented by:

ARD, Inc.  
P.O. Box 1397  
Burlington, VT 05402



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# ACRONYMS AND ABBREVIATIONS

AED	Academy for Educational Development
BASIS	Broadening Access and Strengthening Input Market Systems
CAR	Central Asia Republics
CLS	Conditional Land Shares
COP	Chief of Party
FAO	United Nations Food and Agriculture Organization
GOK	Government of Kazakhstan
GOT	Government of Tajikistan
GOU	Government of Uzbekistan
ha	Hectare
LRMA	Land Resources Management Agency
NGOs	Nongovernmental organizations
OSCE	Organization for Security and Cooperation in Europe
SOW	Scope of Work
UN	United Nations
UNIFEM	United Nations Development Fund for Women
USAID	United States Agency for International Development





# I.0 DEVELOPMENT CONTEXT

Weak or nonexistent land tenure and property rights have been identified as crucial barriers to increased investment and agricultural production throughout Central Asia. In addition, weak rights have contributed to violent conflict and have undermined sustainable resource use. The United States Agency for International Development (USAID) has initiated a dialogue with the Government of Kazakhstan (GOK), the Government of Tajikistan (GOT), and the Government of Uzbekistan (GOU) in areas where U.S. assistance might be able to help these governments address land reform and property rights issues.

USAID/Central Asia Republics (CAR) contracted with ARD, Inc. to implement a two-year land tenure reform project in these three countries. The project was designed to assist the governments on land policy, legislation, and implementation of land laws. It also provided legal aid directly to farmers to empower local land users in regards to property rights issues and, thereby, economic incentive improvements. All three countries are engaged in farm restructuring and privatization to some extent, but the transition processes and directions differ among them, and thus the project aims and activities in each country differed.

## I.1 KAZAKHSTAN

In 1991 and 1993, state farms and collectives in Kazakhstan were broken up and non-land state assets were “privatized.” Initially, there was a process of withdrawal of land plots and farm property by former managers of state and collective farms. Between 1994 and 1997, the former workers received land shares, establishing their rights to use certain types of land in certain quantities, but these only provide a general location and did not identify the boundaries. Between 1993 and 1995, the Land Law was changed to allow for, among other things, government leases of land to private interests at renewable periods of up to 99 years. Property could also be subleased. From 1998 to 2001, the GOK focused on the terms of lease holding and rights of land users; for example, shareholders could take land plots on lease in return for their land shares, for a maximum, renewable period of 99 years. In 2001, the land law was changed again, and it reduced maximum lease terms from 99 to 49 years.

In 2002, the GOK forced a new Land Code through the Parliament for the privatization of agricultural land. A review of the mechanisms and procedures of privatization raises serious concerns about the impact of this law on previous land users. Enacted in 2003, the code allows private ownership through purchases made by those holding leases from the state, but it took a strong stand against the subleasing of those leaseholds and the leasing of conditional land shares (CLS) from reform beneficiaries to emerging large farms (both of which the GOK viewed as “parasitic” and unlikely to lead to substantial investment and growth). The code contains interim provisions (Article 170) intended to accomplish a shift toward direct cultivation that require those who had leased or subleased their CLS to cancel those contracts. They are then left with three options: (1) assume direct cultivation of the land under government lease, (2) purchase the leased land, or (3) contribute their land shares or land plot to the capital of an agricultural enterprise. They were required to act by January 1, 2005, or else lose their land or land share.

The strategy behind the interim provisions was to consolidate the land rights of those not actively farming into larger production units.<sup>1</sup> The donor community had concerns on both the policy direction and the potential results of implementation of the interim provisions. Some members asked that rural citizens be given more time to understand their options in order to better make a choice. There was concern that most peasants would be forced, by lack of resources, to contribute their land or land shares to the share capital of large enterprises. This would make it harder for them to later gain direct access to land, though the Land Code does not preclude this.

## 1.2 TAJIKISTAN

Land reform in Tajikistan has evolved at a slow pace during the past decade. There is no private property; all land is the property of the state. Leaseholds exist, yet few are able to acquire them. Their terms are not favorable to land users, and the government maintains considerable control over what crops are planted. Officials have often disregarded those rights that the leases do confer on landholders. While more than 30 land laws, regulations, and decrees have been enacted, implementation has lagged or been inconsistent. Barriers to the formalization of land-use rights include lack of legal literacy; lack of uniformity and transparency in setting land prices and registration fees; and farm debts, passed on to individual farmers or farming groups upon privatization.

These problems, combined with a devastating civil war and limited productive resources, have left Tajikistan as the poorest of the former Soviet Union republics. Eighty-three percent of the population is classified as “poor.” Only 7% of the country’s land base is arable; nonetheless, agriculture constitutes 20% of the country’s gross domestic product, and 72% of the population is rural. Consequently, the ways in which people secure access to, use, and manage scarce land resources are critical to their survival and the country’s economic growth.

It is estimated that approximately 50% of the former state farms and collectives have been restructured and their lands distributed. The government planned to complete the restructuring process by 2005. The benefits of farm restructuring largely have been limited to a small number of individuals with strong political and family connections. The larger part of the rural population, made up of individuals who previously worked as labor on the state collective farms, now work as landless laborers for these new “private” farmers. The United Nations Development Fund for Women (UNIFEM) estimates that only 5% of the rural population has gained access to restructured (*dekhan*) farmland.

Some peasant farmers have been able to gain access to farmland by leasing land from a collective or private farmer, by a distribution from a restructured farm, or by access to presidential land, and these farmers have been able to earn profits on their investments. Evidence suggests that, with better access to land and information, access to micro-credit, and more secure rights, smallholder farmers could see a measurable improvement in household income.

At the project’s outset, the situation in Tajikistan involved (1) a strong grassroots demand for agrarian reform; (2) a government that is reluctant to free up cotton production and unable to resolve the farm debt issue (both of which constrain agrarian reform); (3) some restructuring progress made but little in the way of tenure rights, further hampered by disincentives created by production quotas, residual debts, and high taxes; and (4) a positive response to policy change proposals but difficulty in realizing these through legislative reform.

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<sup>1</sup> In April 2004, the Organization for Security and Cooperation in Europe (OSCE) conducted a conference in Almaty to recommend that the government postpone the deadline for cancellation of leases or subleases. The request reflected the desire of those whose leases were being cancelled to have more time to complete the processes required to exercise their options after cancellation.

### I.3 UZBEKISTAN

Land policy reform in Uzbekistan has evolved considerably more slowly than that in the neighboring countries of Kyrgyzstan and Kazakhstan. The GOU states that the step-by-step, or “gradualist,” approach to the transformation of the economy has helped it to avoid many of the economic shocks experienced elsewhere in Central Asia. However, significant and increasing levels of unemployment and food scarcity are two outcomes of the government’s failure to adopt real economic reforms. A material decline in the standard of living for many rural Uzbeks has created social tensions that may overwhelm political stability.

In 1998, four new laws led to changes in the agricultural sector. These changes included the decollectivization of some farms to individuals, families, associations, and “enterprises.” These nascent private farms were granted limited leasehold rights. The distribution process of the collectivized land has been neither transparent nor equitable. Those who have political or family connections with the former collective bosses or local political authorities are the most likely to secure access to the best land. Other applicants usually receive plots that are environmentally degraded, of low productivity, or poorly irrigated. While distributions are supposed to be free of charge, farmers report having to pay bribes in order to secure use rights.

Farmers have no tenure security. Under the current land laws and rules governing production, farmers can lose access to land if they do not consistently meet quotas or do not use the land as stipulated by local authorities. There are no legal mechanisms for disputing the land allocation process, nor are there due process procedures in place for disputing land that is confiscated by government. New private farmers are being increasingly pressured on one hand by the transfer of costs for farm production from state enterprises and, on the other, by their continued control of markets and prices and enforced production quotas. Some private farms are reportedly going bankrupt, unable to shoulder increasing costs of production. The failure to allow these farms access to open markets, where farmers could earn better profits, means that these new private farms are increasingly unsustainable.

A Presidential Decree of March 2003 with the goal of “deepening” agricultural reforms gives farmers greater tenure rights and further privatizes the state agricultural sector. Notable aspects of the decree include proposals to increase leasehold terms for individual farmers to a maximum of 50 years beginning in 2004; prioritize private farmer enterprises as the major agricultural producers; require agricultural entities to use “rent” as the main contracting mechanism for agricultural production; reduce the Ministry of Agriculture’s administrative distribution functions; introduce market principles for water use; and develop procedures for enforcing contracts between farmers and procurement organizations. Despite these proposals, the decree is vague in key areas. It does not appear to do away with procurement targets, which means that farmers will still be bound by production instructions from the state. The decree also does not stipulate to whom producers outside of the state procurement system would sell their production. Moreover, it appears that farmers could still be required to sell cotton and grain to marketing boards at prices stipulated by the state.

The GOU generally retains close control of land use to enforce cotton production and makes land available only on leaseholds of various durations, subject to significant obligations and restrictions. *Shirkat* farms created from the old *kolkhozes* are now being subdivided into smaller “farms” (10–50 hectares [ha]) that are still subject to production obligations. And there has been little increase in *dekhan* farms that are characterized by the least constrained land tenure. The 2003 decree poses many possible opportunities for reform, yet it fails to clarify key questions or stipulate mechanisms for implementing its directives.



## 2.0 GOALS OF THE PROJECT

The Land Tenure Reform Project was designed, in all three states, to strengthen the property rights of small farmers and promote sustainable agriculture through increasing the capabilities of farmers for long-term planning. The challenge was to pursue these goals effectively in the context of imperfect and partial programs of land reform and farm restructuring. The country programs utilized different mixes of (1) assistance to government in policy development and implementation, (2) increased legal literacy and rights awareness of those affected by reforms, and (3) direct assistance to farmers through legal aid to help them obtain their procedural and substantive rights under ongoing reforms.

### 2.1 KAZAKHSTAN

In Kazakhstan, the project sought to provide strategic direction and influence land reform implementation, working with the Land Resources Management Agency (LRMA) and local governments. The intention was to develop a land reform implementation strategy and implementing regulations, as well as to strengthen the capacity of GOK agencies to implement land reform and administer the new Land Code effectively. Having a concrete impact on the GOK's basic land tenure policy was difficult because fundamental policies and much of the government's implementation strategy had just been established in the very detailed Land Code of 2003. Those policies reflected a GOK conviction that the future of Kazakhstan's agriculture lies in large-scale, mechanized agriculture, with a limited number of large firms. The government encouraged mergers of existing farm operations into larger units rather than relying upon markets to move the agrarian structure toward more efficient scales.

The project's three components dealt with technical assistance to the GOK, legal assistance to farmers and local authorities, and public information. The project began during the critical period leading up to the deadline for implementation of the code's interim provisions, and so focused much of its attention on influencing and improving their implementation. The components were interrelated: because the project used data generated by the legal aid offices on problems in its interaction with the LRMA on issues of policy and implementation; and because the public information activities supplemented the legal assistance in apprising people of their rights.

The project aimed to establish legal aid offices in regions where farmers most needed assistance and through which nongovernmental organizations (NGOs) would provide legal consultation and information dissemination to local smallholders. The project would work to assist those affected by the interim provisions, seeking to (1) increase the understanding of those provisions by both the public and implementing officials; (2) inform government counterparts, including those in local government, of problems arising in implementation and encourage changes in implementation approaches; and (3) provide legal assistance to those affected by the interim provisions in the exercise of their rights. (This legal assistance extended to problems in the post-interim period, including assisting stockholders in realizing their rights to a share of profits and to withdraw land from the enterprise and assisting farmers with issues of business organization, taxation, land withdrawal, special land fund applications, land survey, and registration.)

A variety of technical assistance initiatives were structured to raise awareness of land reform trends in other countries, quite different from those in Kazakhstan, and to thus increase awareness of alternative policy directions in land reform and farm restructuring.

## 2.2 TAJIKISTAN

The overall objective of this program was to work with GOT agencies to develop a new land law and policies and thereby promote land reform, sustainable agricultural development, and economic investment in Tajikistan. Farmers lacked secure long-term land rights. The legal basis for such land rights was also inadequate. To address these gaps, the project provided technical assistance to the GOT agencies responsible for developing the needed legislation and implementing regulations.

The project intended to revise land codes to strengthen lease arrangements and establish mechanisms for making subleases, revise land laws to allow exit from and entry into collective farms, strengthen laws and enforcement mechanisms to secure land allocations for *dekhan* and Presidential lands, and extend lease terms for Presidential lands to at least 50 years and make such leases renewable, inheritable, and tradable.

If the initial results were positive, the project hoped to expand the program to include a component that would provide legal assistance to farmers to help them secure existing rights and inform discussions of policy and legal reform with the GOT.

## 2.3 UZBEKISTAN

The overall objective of this component was to foster economic growth, land reform, and sustainable agricultural development in Uzbekistan by assisting the GOU to formulate land and agricultural policy and develop property rights for land.

The GOU expressed an interest in giving farmers greater tenure rights and in the further privatization of the state agricultural sector. However, the Presidential Decree appeared inconsistent in many areas related to the government's real ability or interest to achieve these objectives. The project was designed to provide technical assistance to the GOU to help address these inconsistencies and develop a strategy for effective and transparent implementation of activities designed to achieve their stated objectives.

The project sought to establish a land lease system that would grant true property rights that could not be withdrawn without due process, a consistent system of renewable lease terms, and laws and regulations that would allow land transactions (a land market) through a system of legally recognized subleases.

Subject to the availability of resources, the project hoped to add a component that would provide ongoing legal and policy assistance to the Ministry of Agriculture and develop a market-based land tenure system.

## 3.0 DESCRIPTION OF ACTIVITIES BY COMPONENT

### 3.1 KAZAKHSTAN

In Kazakhstan, the Land Tenure Reform Project provided technical assistance at both technical and policy levels as well as legal aid and public information for those who were implementing and affected by GOK land programs. Responding to the GOK's sense of urgency surrounding the implementation of interim provisions of Article 170 of the Land Code, the project focused increasingly on the issues and processes involved in that transition. Positive interactions developed between project components, with information generated by the legal aid offices on problems and issues in Land Code implementation, that informed both technical assistance activities and policy discussions.

#### 3.1.1 Technical Assistance to the GOK

The project successfully created opportunities for engagement with the government on land policy and administration issues. Project staff members met with LRMA staff on a regular basis in formal and informal contexts, at both local and national levels, to discuss policy and administrative reforms. The following specific technical assistance activities provided focus for that interaction:

- **Regional Conference on Land Reform**

Early in the life of the project, GOK officials were exposed to the land tenure reform experiences of other countries when three senior officials attended a USAID-sponsored regional conference on land reform held in Kyrgyzstan on October 27–29, 2004.

- **Roundtable on Preliminary Findings on Interim Provisions of the Land Code**

A roundtable attended by GOK agencies and local NGOs was held in Astana in November 2004. It drew upon the early experience of the legal aid offices to identify emerging implementation issues, but it also raised a number of land policy issues. The roundtable was cosponsored by the Organization for Security and Cooperation in Europe (OSCE), and GOK reactions provided information that was valuable in framing the public information campaign. The roundtable received considerable publicity, which initiated a public discussion of a number of key issues and elicited reactions that highlighted the political sensitivity of those issues.

- **Assessment of GOK Needs in Key Land Administration Areas**

The project conducted an assessment of land administration by an international consultant in March 2005. The assessment analyzed and documented the existing land administration system; helped increase understanding of the transition underway in the land management structure in the GOK; and provided recommendations for improving efficiencies, simplifying procedures, and reducing the costs involved in the land valuation process and in maintaining the cadastre and immovable property registration systems.

The assessment made various recommendations, including a number concerning land administration tasks in implementation of the Land Code. It recommended:

1. Revised procedures for processing applications from farmers to withdraw land from large farm enterprises or to acquire state-owned land to shorten the process from the current three months to a maximum of six weeks;
2. Better guidance by the LRMA for citizens applying to withdraw land from the large farm enterprises and for local administrators dealing with these requests; and
3. Amendments to the Land Code to replace the land valuation coefficients with more market-based valuation standards that appear in regulations under the code.

These recommendations were discussed with the LRMA and are under consideration by the GOK.

- **Assessment of the Implementation and Impact of 2003 Land Code's Interim Provisions (Article 170)**

The project proposed this assessment at the urging of its legal aid offices, and the proposal was supported by the LRMA of the GOK and agreed to by USAID. The assessment was conducted by project staff working in collaboration with the legal aid offices and through a contract with an Astana survey firm for a sample survey. The findings were presented and discussed and recommendations were approved at a Conference on Implementation of the Land Code in late September 2005.

The assessment, relying on both original and official data, provides the first public comprehensive review of the process of land reform in Kazakhstan, including the processes of farm restructuring, the creation of diverse legal entities for farming, and the distribution of costs and benefits from those reforms. It examines the implementation of the interim provisions, providing both quantitative and qualitative data on the cancellation of leases, the conversion of land shares into shares in farm enterprises, and the impacts on farm size and number of the various types of farm entities.

The assessment found that while very little land has so far been fully privatized (most still remains leased from the GOK) and no significant rural land market exists, there is an increasingly positive attitude toward private land ownership and the number of leaseholders purchasing land has recently increased significantly. It raised critical concerns about the prospects of the new shareholders in agricultural enterprises who feared they would never see the dividends promised as well as about the GOK's preference for merging farms into very large units. It made the following detailed recommendations, reviewed by the LRMA before publication:

1. Better information dissemination on completion of interim provision processes;
2. Measures to protect the rights of shareholders in agricultural enterprises;
3. Identification by each enterprise of arable land available with withdrawal;
4. Regular publication of data on land use and property rights; and
5. Attention to the need for a legislative framework for conversion of agricultural to urban land.

- **Conference on the Implementation of the Land Code**

With the LRMA's support, the project (with support from the Academy for Educational Development [AED]) conducted a national conference, "The Land Code in Kazakhstan: Past and Future," in Astana, September 28–29, 2005. Representatives of the LRMA and other agencies, the Kazakhstan Union of Farmers, and others made presentations on land reforms and legislative developments, and the project presented its assessment of the implementation of the code's interim provisions.



- **Development of Final Written Recommendations for Follow-up Activities with the GOK**

The Conference on the Implementation of the Land Code participants endorsed some of the recommendations in the project interim provisions assessment, rejected others, and put forward yet others. The final written recommendations provided by the project are based on the deliberations of the conference and have been discussed thoroughly with relevant GOK officials. While all were positively considered at the conference, they do not all represent GOK positions.

The final recommendations are that the GOK should:

1. Replicate the success of USAID's Legal Aid Program by establishing long-term legal aid centers in each *oblast*;
2. Monitor and protect the rights of shareholders in agricultural enterprises;
3. Moderate the scaling-up campaign and rely instead upon the emerging land market to determine farm sizes;
4. Compile statistics that allow comparison of productivity and profitability at alternative scales by different types of farm organization;
5. Pursue its stated objective of a client-oriented "one window" for land administration at the *rayon* level;
6. Narrow the reasons for termination of GOK leases and rely more on the impact of incentives to ensure good husbandry; and
7. Provide land users with a badly needed period of stability, free from further adjustments in the land tenure system.

### **3.1.2 Legal Assistance**

- **Legal Aid Offices**

The project established eight legal aid offices operated by NGOs in eight *oblasts* around the country. Those offices:

1. Provided free legal consultation to rural citizens (including legal advice, assistance in applications, and dispute resolution and negotiation through walk-in and field services);
2. Clarified issues through discussions with local authorities and large farm managers; and
3. Prepared and disseminated information on land issues.

Issues covered by the legal aid offices were clustered in the following areas:

1. Rights and responsibilities of members of enterprise who contributed their CLS to the authorized capital stock of the agricultural enterprises (partnerships, production cooperatives, and joint stock companies);
2. Procedures for distribution of profit;
3. Withdrawal from the enterprise;
4. Procedures for establishing different forms of agricultural enterprises, particularly simple partnerships;
5. Procedures for obtaining rights for lands such as applying for right of ownership/use toward the CLS or the Special Land Fund and procedures for inheritance; and

6. Other issues related to implementation of rights for land use such as access to credit, machinery, and other agricultural input; taxation; legal, financial, and administrative framework for obligatory insurance in plant growing; and the *dekhan* draft law.

During the one-year program, these offices served about 21,000 local citizens. Nearly 5,000 walk-ins sought information and assistance, and office staff carried out 600 field trips. About 16,000 people participated in mini-trainings held by the staff. Staff actively pursued problems raised by citizens in more than 7,000 cases, taking them up with local government, farm enterprises, and other relevant organizations. Of these, 1,600 were resolved (remarkable in what was effectively a one-year program). Participation by women was approximately 30%, across the range of project implementation activities.

- **Legal Advice to Local Authorities and other NGOs**

The eight legal aid offices conducted more than 100 roundtables, seminars, and workshops, with 1,782 participants coming from local governments and relevant NGOs on a number of topics:

1. How to help previous CLS holders to obtain title documents;
2. The rights of new stockholders in farming enterprises;
3. Procedures for establishing new farms;
4. Applications for land from the state special land fund; and
5. Formalities required for land title transfers and inheritance.

### 3.1.3 Public Information

The public information component, added in mid-2004, informed and advised rural residents about Land Code implementation through a variety of media on a national, regional and local basis. It was implemented in two stages: a public information campaign from October through December 2004 and, after the deadline for implementation of the interim provisions (January 1, 2005), a more modest program of information dissemination.

- **Stage 1. Public Information Campaign:** The rapid implementation of the interim provisions of the Land Code required an intensive effort to provide information to rural residents who were making crucial decisions. Messages addressed the content of the interim provisions, the options and their pros and cons, and the meaning of the deadline. The media utilized included television, newspapers, other print media (handouts/leaflets/posters), and poster boards in offices and other public places.
- **Stage 2. Information Dissemination:** A booklet was developed explaining the project, the services provided by the legal aid offices, the issues on which advice is provided, and the contact information for the eight offices. Ten messages on priority problems and solutions were prepared in close coordination with the Union of Farmers and disseminated through the union's newspaper. In addition, one legal aid office has developed a set of frequently asked questions for use by the *oblast* land relations department staff, in collaboration with the department. The project has collaborated with other programs in making information available, disseminating public information produced earlier by GTZ and OSCE. The project's legal aid offices have been an important outlet for these informational items. The LRMA published the project's public information products in its magazine in December 2004, and the Union of Farmers generated a brochure reporting the results of the project's November 2004 roundtable.

## 3.2 TAJIKISTAN

### 3.2.1 Technical Assistance to the GOT

- **Regional Conference on Land Reform**

Early on, the project exposed GOT officials to the experiences of other countries with land tenure reform by arranging and funding the participation of three senior officials at a USAID-sponsored regional conference on land reform held in Kyrgyzstan, October 27–29, 2004.

- **Short Course**

A short course (a joint effort with AED), “Achieving Economic Benefits through Land Reform,” was held November 1–2, 2004, in Dushanbe, with 31 participants, including 15 attendees from government agencies and Parliament, 4 from NGOs, 8 from international organizations (the U.N. Food and Agriculture Organization [FAO], CARE International, Action against Hunger, the Swedish International Development Cooperation Agency, USAID mission, and AED), one farmer, and project office staff.

- **Land Policy Issues Roundtable**

A land policy issues roundtable (held jointly by the project and the State Land Committee [SLC]) in Dushanbe discussed the results of the land legislation assessment (carried out by an earlier USAID project) and the FAO implementation monitoring report. The legal assessment was unnecessarily long and not very accessible to nonspecialists, and these discussions made it clear that participants did not understand some of the policy issues behind the recommendations. However, the roundtable resulted in formulation of a broad set of priorities explicitly considered by the government, organized as follows:

1. Provide secured land-use rights to land users;
2. Provide improved legal framework for land reform;
3. Enable a participatory approach to ensure a successful land reform; and
4. Develop a land rights literacy campaign.

This led the project to commission a land policy issues review.

- **Review of Land Policy Issues**

The international consultant who had earlier completed a review of the land legislation was contracted to prepare a brief, highly focused policy issues paper. That paper, prepared in November 2004, sets the context for specific recommendations by discussing:

1. Land tenure security as an incentive to agricultural investment;
2. Access to land as a safety net for rural residents;
3. Access to land rights by women and other disadvantaged groups;
4. Use of land rights as security for loans for agricultural development;
5. A system of record keeping and proof of rights in land and transactions; and
6. A modern, integrated land administration system.

Key policy reform needs were identified in order to create broader access to land and increase security of tenure, marketability of land, and mortgage ability. These materials were translated into Russian and Tajik for effective dissemination. The project received written feedback on the recommendations of land policy issues paper from the SLC, Ministry of Justice, and Ministry of Agriculture.

- **China Study Tour**

The project proposed and initiated discussions for a study tour to China for land tenure reform officials from Tajikistan and Uzbekistan to learn from the successful land reform experience there. The project chief of party (COP) took advantage of her familiarity with Chinese land reform and local experts in organizing the tour. The tour began with a visit to cotton-producing areas of Xinjiang, followed by expert consultations in Beijing. The tour took place May 9–15, 2005, led by the COP. It was sponsored by USAID-funded AED, with China-Europe Association for Technical and Economic Cooperation as the host institution.

- **Study Tour Lessons Learned Workshop**

The project conducted a workshop in Dushanbe on June 2, 2005, on the lessons learned from the China study tour. The workshop was attended by G.O.T officials and legal aid office staff, with strong presentations by three of those who participated in the tour: two by government officials and one by an NGO official. The lessons that were taken away from the study tour included:

1. Providing farmers with strong incentives through property rights and freedom of management was the critical first step in China's economic development;
2. Land reform must not be discussed in isolation from other policy and legal reforms but linked closely to them;
3. In the early stages of the Chinese reform, allowing producers freedom to freely market and profit from incremental increases in production (over and above quotas) provided farmers with strong incentives to increase production;
4. The success of the Chinese experiment depended crucially on government "letting go" of control over farmers and allowing markets to drive production; and
5. Long-term, inheritable land-use rights can provide a basis for major increases in production, but they must include inheritability, the right to decide on production and marketing, the right to take the benefit from profits, and the right to dispose of the use right.

- **Policy and Law Reform Seminars**

Under the auspices of the Land Committee in late 2004 and 2005, the project sponsored a series of one-day interactive seminars for stakeholders in Dushanbe that involved government, donors, NGOs, and others participating in the land reform process. Topics discussed included:

1. Key land tenure concepts;
2. The land policy issues paper and its recommendations;
3. Issues facing farmers, as reported by the project's legal aid office; and
4. Comparative experiences in land market development.

In September and October 2005, a series of stakeholder workshops (culminating in a plenary workshop) was held under the title "Towards a Draft Framework Strategy for Land Reform in Tajikistan." The objective of the series was to have stakeholders in the land reform process identify what they felt government land reform policy priorities should be for the next three years. The result was a preliminary

document that identified key land reform policy priorities, which included reform activities in four areas: land administration, farms and farm structures, gender concerns, and public education/dispute resolution.

### 3.2.2 Legal Assistance

The overall legal assistance objective was to develop a program of farmer education/awareness to help farmers realize their land-related rights and obligations and thus strengthen economic development in agricultural areas and produce greater transparency in land administration. The program was initiated under an agreement between the project and the Tajikistan Union of *Dehkan* Farmers, which initiated the program of legal literacy and opened the project's first legal aid office in Kurgan Teppe, Khatlon *Oblast*, and later, by a second office in Qabodiyon District, Khatlon *Oblast*, established in June 2005 through the local women's NGO "Shahnoza."

#### Public Information

Dissemination was made of selected legal materials, reprinted for dissemination by the Union of *Dehkan* Farmers and distributed through the union's offices and the legal aid offices. They dealt with the topics of rural people's land rights, farm taxation, procedures for organization of *dehkan* farms, and procedures for legally challenging abuses of land rights.

The project reviewed and selected materials prepared earlier by other donors or NGOs, as material to be consolidated by this project into a booklet that would assist local people with the practical issues involved in withdrawing land and establishing a *dehkan* farm.

On April 4, 2005, the project held the first information dissemination workshop on the findings of the legal aid office in Shartuz District, Khatlon *Oblast*.

#### Legal Aid

The legal aid offices disseminated information, provided legal advice, and conducted training events. Legal advisory services provided included:

1. Assistance in the preparation of title documents, petitions, complaints, and other documents;
2. Consultations on the rights and obligations of land users; and
3. Representation of farmers' interests in courts and other official bodies in case of land disputes.

Legal advice on land-related issues focused primarily on assistance on contracts between investors and *dehkan* farms. Legal assistance lawyers assisted in drafting contracts and explained the law on *dehkan* farms. Many of the investors and *dehkan* farmers agreed to use standardized contracts.

In addition to farmers' training, the project also provided training to local officials engaged in the implementation of the land reform at the *bukumat* level.

From the beginning of the project through September 2005, the following results were produced.

Total numbers serviced:

- 4,100 persons/legal entities serviced;
- 1,734 legal opinions provided;
- 2,366 persons receiving legal education/training through 98 training sessions; and
- 22 district visits.

In the Kurgan Teppe office, access to legal advice was provided to 1,112 persons starting in November 2004. Fifty-six petitions/complaints were received, of which 59% had positive results and 41% are still pending. In Qabodiyon, access to legal advice was provided to 622 persons starting in June 2005. The office received 250 petition and complaints, of which 45% were solved positively (by courts, by local authorities, by local land agencies) and 18% are still under review; the remaining 38% were stopped, to be reviewed, or withdrawn by petitioners.

Approximately 20.9% of people served were women.

### **3.3 UZBEKISTAN**

#### **3.3.1 Technical Assistance to the GOU**

##### **Review of the Law Relating to Land**

This review, prepared by local project staff in 2004 to facilitate the planned land reform assessment, is a valuable contribution to thinking about potential land law reforms.

##### **Land Reform Assessment**

An international consultant conducted an assessment of the GOU land reform program in March 2005. The government cooperated fully with the assessment. The consultant reviewed and discussed the activities of donors, NGOs, and state agencies in the field of land reform since independence; analyzed existing policies and legislation in terms of security of tenure and marketability of land rights; analyzed the impacts of these reforms; and identified NGOs that could provide technical assistance under contract with the project. The report was well received, but a roundtable scheduled for June 2005, to discuss the findings and recommendations, had to be cancelled when USAID discontinued some of its program activities in Uzbekistan in the aftermath of the government's violent response to the Andijan uprising.

##### **China Study Tour**

Two senior officials took part in the China study tour May 9–15, 2005 (see 3.2.1 above for details). A June 2005 follow-up workshop to disseminate the learning from the study tour had to be cancelled when USAID programs in Uzbekistan were suspended following the Andijan incident.

*Note: Some USAID program activities in Uzbekistan were suspended in June 2005, and the roundtable on the assessment and the lessons learned workshop on the study tour had to be cancelled, as well.*

# 4.0 PROJECT OUTPUTS

## 4.1 KAZAKHSTAN

### 4.1.1 Technical Assistance to GOK

- Assessment of key land administration areas;
- Study of impact of implementation of interim provisions of one and code;
- Conference on land code implementation; and
- Final written recommendations for follow up activities with GOK.

### 4.1.2 Legal Aid Program

- Land issues of more than 7,000 persons addressed;
- Land problems of 1,600 persons solved; and
- Quality of implementation by GOK strengthened.

### 4.1.3 Public information

- TV spots, posters, and leaflets to inform people about land code changes, rights, and procedures during public information campaign on interim provisions;
- Publication of brochures and newspaper articles on procedures to be followed in finalizing interim options and advice on issues faced in the post-interim provision period; and
- Land users manual on leasing land from the government and ownership through the farmers' newspaper.

#### **Discussion of scope of work (SOW) anticipated outputs vs. actual outputs**

The SOW anticipated the development of a land reform implementation strategy and regulations, along with strengthening the capacity of the GOK implementing agencies to properly implement land reform and administer the new Land Code. However, the timing of project implementation, combined with the GOK's desire to proceed on its own according to a tight timetable, impeded realization of this objective.

Nonetheless, the project successfully created opportunities for engagement with the GOK on land policy and administration issues. Project staff met with Land Resources Management Agency staff on a regular basis, in both formal and informal contexts, at local and national levels, to discuss implementation reforms. The agency has acknowledged in writing the contribution of the project to the implementation of the Land Code. Those discussions did play a role in persuading government to allow completion of interim option procedures

after the deadline specified in the Land Code, but this has not been specified in a regulation, and the project was not able to involve itself directly in the development of regulations.

The discussions have not, however, led the GOK to modify its basic land reform implementation strategy. The project has made many suggestions on implementation, but the LRMA did not involve the project directly in preparation of implementation regulations and guidelines.

### **Component I (Technical Assistance)**

- The written recommendations to be provided to the GOK and USAID on the most appropriate implementation strategy for the priority areas defined by the GOK, due in Quarter 1 of Year One, could not be delivered, because the strategy had been finalized prior to May 2004. Instead, the roundtable on implementation of the interim provision, in November 2004, provided written recommendations on ways to improve implementation.
- The written recommendations on a land conference in Kazakhstan, due in Quarter 2 of Year One, were delayed, and the scope and structure of the conference was a topic of continuing discussion with the LRMA. Instead, it took the form of a national conference on the land code implementation in September 2005.
- The written recommendations on specific, discrete next steps, which can be undertaken as follow-up activities by GOK, have been provided as scheduled in Quarter 4 of Year Two.
- Implementing regulations were not developed with regard to cadastre and registration because existing regulations were found by the land administration assessment to be adequate. The recommended change in valuation would have required amendment of the code itself, which GOK was not willing to contemplate at this time.

### **Component II (Legal Aid)**

Some of the deliverables specified in the SOW are (1) design of a curriculum for training officials in the fundamental and applications of the new Land Code and (2) information on the Land Code and means to solve potential problems disseminated to local officials at selected sites through training seminars and information meetings.

The Land Resources Management Agency was unwilling to think in terms of the project training agency staff, which the LRMA considered its own prerogative. In fact, the legal aid offices have instead provided such training more informally, through working closely with implementing officials and in a variety of contexts: information meetings, training for farmers, dispute settlement, and seminars. Local staff of the LRMA proved very receptive to learning from legal aid office staff, delivered in this manner.

### **Component III (Public Information)**

This was not anticipated in the SOW, but added by agreement with the USAID.

## **4.2 TAJIKISTAN**

### **4.2.1 Technical Assistance to the GOT**

- Participation in regional conference on land reform;
- Short-course on achieving economic benefits through land reform;
- Land policy issues roundtable;



- Land policy issues assessment subsequent commitment letters;
- China study tour;
- Study tour lessons learned workshop; and
- Policy and law reform seminars.

### **4.2.2 Legal Assistance**

- Two legal aid offices established, one by a women's NGO;
- Reprinting and dissemination of selected legal materials reprinted;
- Information-dissemination workshops for disseminating findings of legal aid offices;
- Advice and training for both rural households and local officials;
- Legal education for 2,366 persons through 98 training sessions across 22 districts in Khatlon region;
- Legal advice for 1,734 persons through legal aid office walk-ins and 27 field trips;
- Directly or indirectly improved security of land tenure for up to 13,000 persons.

#### **Discussion of SOW anticipated outputs vs. actual outputs**

The SOW for Tajikistan initially anticipated major legal reforms as outputs of the project. Early in the project, USAID had come to understand that this was unrealistic, and instituted another project, the Tajikistan Land Law Reform Project, to pursue this objective. The results shown above fulfill and exceed the results targets set in the approved work plan for Tajikistan.

The project found that it had to invest considerable effort up front to achieve a basic literacy on land reform on the part of responsible local officials. Project staff observed that the China study tour was an effective learning experience and elicited a high level of engagement in discussions of lessons learned and how they might be applied in the Tajikistan context.

While officials were receptive to new ideas, they hesitated to move further with land tenure reform pending satisfactory resolution of farm indebtedness issues, acute in the cotton sector.

## **4.3 UZBEKISTAN**

### **4.3.1 Technical Assistance to the GOU**

- Review of land legislation;
- Land reform assessment; and
- China study tour.

#### **Discussion of SOW anticipated vs. actual outputs**

When USAID's program activities in Uzbekistan were suspended in June, hopes for some results were dashed. The roundtable on the assessment and the lessons learned workshop on the study tour had to be cancelled, as well as a seminar on land market development by a World Bank expert.



## 5.0 PROJECT IMPACT

### 5.1 KAZAKHSTAN

The legal aid component increased the understanding of local land issues by both officials and those affected by the Land Code and improved implementation of the code. The deputy chair of the LRMA said repeatedly that the project legal aid offices served as additional means for implementation of land policy, and one official praised the public information component in writing, stating:

“I highly appreciate the TV program that helps local citizens understand the interim provisions and their options. The information was extremely useful and easy to understand. I am sure that many rural people took early concrete actions by watching the project TV program to exercise their rights.”

That same component resolved a substantial numbers of disputes. Its impact was due in part to an environment of awareness of the rule of law, in which local officials and others, when confronted with evidence that they were not in compliance with the code and regulations, generally moved to correct this mistake.

Local farmers who participated in a roundtable conducted by the Petropavlovsk legal aid office told the U.S. ambassador:

“We appreciate the assistance that the legal aid office has provided. Please tell USAID not to close the legal aid office. Without it, we would not know what our rights were during the implementation of Article 170, Land Code.”

USAID responded by extending four legal aid offices for seven additional months.

Information on the problems faced by rural people from the legal aid offices allowed the project to better engage the GOK in discussions of policy change and reform of implementation. Building on this information, the project’s assessment of implementation of the interim provisions made a valuable contribution to the end-of-project conference on the Land Code, and is now the basic reference in English on Kazakhstan’s land reform.

Nonetheless, the GOK seems likely to stay the policy course established by the Land Code for some years more. The project, while working in good faith with GOK to implement the Land Code, has alerted the GOK to a number of existing and potential problems with current policy.

### 5.2 TAJIKISTAN

The early inputs by the project, in terms of seminars and exposure to the international experience, raised the level of policy dialogue on land reform issues in Tajikistan, and officials were quite willing to engage with the project in discussion of reform options.

The project's legal aid component proved effective in assisting local officials and farmers, achieving numerous successes in vindicating farmer land rights in the Economic Court. This is empowering to rural people in a social context, where mistakes and abuses by local officials had rarely found a remedy.

The land policy assessment was a very substantial contribution to the shape of future land policy development and law reform, and this been discussed widely. The reaction of a number of concerned agencies to the recommendations of the assessment encouraged USAID to initiate a separate Tajikistan Land Law Reform Project, to which this project turned over its policy reform and law reform activities. The final policy reform roundtable at the conclusion of the project (land policy workshop series "Towards a Draft Framework Strategy for Land Reform in Tajikistan") was considered highly successful. The Tajikistan Land Legislation Development Project is seeking law reforms to realize new policy directions, but these are still pending.

### 5.3 UZBEKISTAN

The early termination of project activities owing to human rights abuses by the GOU, prior to critical opportunities for policy dialogue, dashed hopes for major impacts. This was unfortunate, because the land reform assessment had been well received, and the China study tour had been regarded very positively. The new unified LRMA was remarkably positive in the planning for roundtables to discuss those two outputs, arranging for the participation of 40 officials, including *oblast*-level staff, and for the holding of the events in LRMA premises. An increasingly fruitful dialogue was emerging when the project came to an early end.

### 5.4 LESSONS LEARNED

- The project design may have overestimated prospects for rapid reforms in land tenure policy and law.
- Major legal reform was, in retrospect, too ambitious a target for a project of this limited duration, given the lack of a consensus for further reform in any of the three countries at the initiation of the project.
- Nonetheless, project seminars, conferences, and assessments under the technical assistance components provided valuable recommendations and significantly raised the level of discussion of land tenure policy and of legal reform needs and options.
- The project's reliance on NGOs to deliver legal assistance has made the governments more aware of the potentials of using NGOs in implementation of government programs.
- The China study tour proved effective in opening the eyes of senior officials of land agencies to how incentives can replace controls and how markets in land rights can develop.
- Implementation simultaneously of a "top-down" strategy (facilitating policy/planning development at a government level) and a "bottom-up" strategy (assisting with land rights education and legal assistance at a grass-roots level, combined with public information campaigns to drive demand for these services) appears to work well in helping to drive change.
- The legal aid and public information components assisted governments in the implementation of ongoing land reform programs while helping to vindicate farmer land rights. At the same time, they contributed valuable information for policy reform discussions.



**U.S. Agency for International Development/Central Asia Republics**  
**Park Place Building**  
**41 Kazibek Bi, Street**  
**050100 Almaty**  
**Kazakhstan**  
**Tel: 7 (3272) 50-76-12 or 7 (3272) 50-76-17**  
**Fax: 7(3272) 50-76-35 or (3272) 50-76-36**  
**[www.usaid.kz](http://www.usaid.kz)**